

REMARKS

Claims 1-11 are pending. Pursuant to the Examiner's suggestion, applicant has amended claim 10 to recite "as compared to yeast cells not having been so cultured." This amendment is further discussed below in the context of the Examiner's rejections. No new matter is introduced by the amendment.

Rejection under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claim 10 and claims dependent therefrom as being indefinite. Specifically, the Examiner states that claim 10 is not clear on whether the plurality of yeast cells in the presence of an alternating electric field has been modified. The Examiner suggests that, to indicate that the yeast cells have been modified, applicant insert in claim 10, after the term "subject", the phrase "as compared to yeast cells not having been so cultured."

Applicant has amended claim 10 accordingly.

Double patenting rejections

Claims 1-11 stand rejected, under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-9 of United States Patent 6,709,849. Claims 1-11 stand provisionally rejected, also under the judicially created doctrine of obviousness-type double patenting, as being unpatentable over claims 1-13 of copending United States Application 10/717,158, claims 1-10 of copending United States Application 10/717,272, and claims 1-13 of copending United States Application 10/717,137.

Ultra Biotech Limited, the assignee of this application, files herewith a terminal disclaimer under 37 C.F.R. § 1.321(b) and (c), disclaiming the terminal portion of any patent granted on this application which would extend beyond the

Appl. No. 10/717,135
Amdt. dated November 24, 2004
Response to August 25, 2004 Office Action

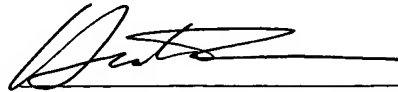
expiration date of the '849 patent, or any patent to be granted on the '137, '158 or
'272 application. This rejection can now be withdrawn.

Appl. No. 10/717,135
Amdt. dated November 24, 2004
Response to August 25, 2004 Office Action

CONCLUSION

Applicant respectfully submits that the application as amended is in condition for allowance, and early, favorable action is solicited.

Respectfully submitted,



Z. Ying Li (Reg. No. 42,800)
Attorney for Applicant
Haitao Sun (Reg. No. 48,546)
Agent for Applicant
Fish & Neave LLP
Customer No. 1473
1251 Avenue of the Americas
New York, New York 10020-1104
Tel.: (212) 596-9000